International Seabed Authority ISBA/21/C/11

Council

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Memorandum of understanding between the International Seabed Authority and the Pacific Community

Note by the Secretary-General

I. Introduction

1. By virtue of article 169, paragraph 1, of the United Nations Convention on the Law of the Sea, the Secretary-General of the International Seabed Authority shall, on matters within the competence of the Authority, make suitable arrangements for consultation and cooperation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations. Such arrangements require the approval of the Council of the Authority. Any organization with which the Secretary-General has entered into an arrangement may designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedure of these organs. The Secretary-General may distribute to States parties written reports submitted by such organizations on subjects related to the work of the Authority and in which they have special competence.

II. Cooperation between the Authority and the Pacific Community

2. On 26 May 2015, the Director General of the Pacific Community wrote to the Secretary-General of the Authority, inviting the Authority to formalize its relationship with the Pacific Community by means of a memorandum of understanding with the aim of:

(a) Promoting the development of regional and national regulatory frameworks that support the interests of Pacific island States and their efforts to regulate and manage activities undertaken under their effective control in the Area;

(b) Promoting marine scientific research, including by publishing and disseminating research and the results of analysis for the mutual benefit of the member States of the Authority and the Pacific Community;

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(c) Promoting capacity-building and information-sharing in the light of the relevant provisions of the Convention and, more specifically, with regard to marine scientific research (art. 143), the transfer of technology (art. 144, and section 5 of the annex to the Agreement relating to the implementation of Part XI of the Convention), the participation of developing States in activities in the Area (art. 148), policies relating to activities in the Area (art. 150) and economic assistance towards developing countries (section 7 of the annex to the Agreement).

3. The South Pacific Commission, as the Pacific Community was formerly called, was founded in 1947 under the Canberra Agreement by the six participating Governments that then administered territories in the Pacific: Australia, France, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland and United States of America. The organization was established to restore stability to a region that had experienced the turbulence of the Second World War, to assist in administering their dependent territories and to benefit the people of the Pacific. The name "South Pacific Commission" was changed to "Pacific Community" at the fiftieth anniversary conference, in 1997, to reflect the organization's Pacific-wide membership (while retaining the acronym "SPC"). Currently, the Pacific Community counts 26 member States and territories; 17 of the member States are also members of the Authority, namely: Australia, Cook Islands, Fiji, France, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

4. The relationship between the Authority and the Pacific Community draws on the long-standing relationship established with what was, at the time, the Pacific Islands Applied Geoscience Commission, which was granted observer status with the Authority in March 1997. On that basis, it co-hosted a workshop in Fiji with the Authority in 2003. When the Applied Geoscience Commission merged with the Pacific Community in January 2011 and became its Geoscience Division, the Authority, in collaboration with the Pacific Community through the Pacific Community-European Union Deep Sea Minerals Project and the Government of Fiji, organized a second workshop in Fiji, in 2011. It is worth noting that a former Director of the Applied Geoscience Commission, Alfred Simpson, was a member and former Chair of the Legal and Technical Commission of the Authority, and the former Director of the Geoscience Division of the Pacific Community, Russell Howorth, is a current member and former Chair of the Legal and Technical Commission. During the current session, the Assembly will be invited to take note of the institutional transition of the Applied Geoscience Commission to the Pacific Community and to recognize formally the observer status of the Pacific Community under rule 82, paragraph 1 (d), of the rules of procedure of the Assembly of the Authority.

5. The partnership and collaboration between the Authority and the Pacific Community over the years have been very successful, and many Pacific island States have benefited as a result. In fact, since the 2011 workshop, the relationship between the two organizations has steadily been reinforced, including by the participation of Pacific island nationals, sponsored by the Deep Sea Minerals Project, in the Authority's internship programme.

6. The proposed memorandum of understanding, as drafted and agreed to by the secretariats of the Authority and the Pacific Community, is annexed to the present document and submitted for consideration by the Council of the Authority, in accordance with article 169 of the Convention.

III. Actions by the Council

7. The Council is invited to take note of the present document and to approve the proposed memorandum of understanding between the Authority and the Pacific Community.

Annex

Memorandum of understanding between the Pacific Community and the International Seabed Authority

The purpose of the present memorandum of understanding is to specify the scope of cooperation between the Pacific Community and the International Seabed Authority (hereinafter referred to as "the Authority") in promoting the development of regional and national regulatory frameworks that support the interests of member States of the Pacific Community and their efforts to regulate and manage activities undertaken under their control in the international seabed area (hereinafter referred to as "the Area"); in conducting marine scientific research, including publishing and disseminating research and the results of analysis for the mutual benefit of member States; and in participating in capacity-building initiatives and sharing relevant information on seabed resources, in the light of the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter referred to as "the Convention"), notably articles 143, 144, 148 and 150, as well as sections 5 and 7 of the annex to the Agreement relating to the implementation of Part XI of the Convention, adopted on 28 July 1994 by the General Assembly of the United Nations in its resolution 48/263, hereinafter referred to as "the 1994 Agreement").

Whereas

The Pacific Community, since its establishment in 1947, has been committed to supporting and strengthening the economic and social welfare of the people of the Pacific region and contributing to ensuring that the special interests and needs of Pacific island developing States are taken into consideration, a commitment that is also required by the Convention, notably its article 148,

The Pacific Community, with due regard for the sovereignty of all of its member States, seeks, where appropriate, to cooperate with such competent agencies as regional organizations serving the Pacific region and other international organizations and bodies, with the aim of promoting the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources and the study, protection and preservation of the marine environment,

The Pacific Community is mandated by its members to provide for and facilitate research in technical, scientific, economic, environmental and social fields and to ensure the maximum cooperation among research bodies,

The Pacific Community, in fulfilling its obligations, provides technical assistance, advice and information to its member States to support informed decision-making processes and the application of the best international practices for sustainable development and the management of their natural resources, including deep seabed minerals that occur in areas within national jurisdictions and in the Area,

The Pacific Community provides assistance to Pacific island States for the development and implementation of relevant regulatory frameworks that cover activities undertaken in areas within national jurisdictions and under their effective control in the Area, with a view to ensuring that any such activities are conducted in accordance with international law,

The Authority is the competent organization through which States parties to the Convention shall, in accordance with Part XI of the Convention and with the 1994 Agreement, organize and control activities in the Area, particularly with a view to administering the mineral resources of the Area, as defined in article 1, paragraph 1 (1), of the Convention,

The Authority promotes and encourages the conduct of marine scientific research with respect to activities in the Area and the collection and dissemination of the results of such research and analysis, when available, with particular emphasis on research relating to the environmental impact of activities in the Area, in accordance with article 143 of the Convention and section 1, paragraph 5 (h), of the 1994 Agreement,

The Authority is competent to take the necessary measures to ensure the effective protection of the marine environment from harmful effects that may arise from activities in the Area, as set out in article 145 of the Convention and section 1, paragraph 5 (g), of the 1994 Agreement,

The Authority seeks consultation and cooperation with, inter alia, international organizations on matters within the competence of the Authority,

The Pacific Community has 26 members, 17 of which are also members of the Authority, namely: Australia, Cook Islands, Fiji, France, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu,

The Pacific Community and the Authority both have a strong interest in the proper regulation and sustainable development of mineral resources in the Area and in the protection of the marine environment, including that of vulnerable deep sea ecosystems in the Area that are associated with some mineral resources, as well as in addressing the particular needs of developing States with regard to the equitable and efficient utilization of their resources, and have taken initiatives at a regional scale in that respect,

Increased cooperation between the Pacific Community and the Authority will help to ensure the appropriate cooperation and coordination of measures that encourage and support sustainable, strong, efficient and transparent regulation and management of activities undertaken under the effective control of the Pacific island States in the Area,

Consultation will help to guarantee that such activities are undertaken with due regard to the rights and duties of Pacific island States and the Authority, as set out in the Convention and the 1994 Agreement.

The Pacific Community and the Authority have decided:

(a) To work in close cooperation, where appropriate and practical, to promote the development of regional and national regulatory frameworks, encompassing both policy and legislation, that support the interests of Pacific island States and member States of the Pacific Community and the Authority and their efforts to regulate and manage activities undertaken under their effective control in the Area;

(b) To consult, where appropriate and practical, on issues of mutual interest in the field of marine scientific research, related services and capacity-building, with a view to promoting or enhancing a better understanding of activities in the Area;

(c) To work in close cooperation, where appropriate and practical, in the field of ocean surveys, particularly in the collection of geological and environmental data and information, as well as for the promotion of international technical and scientific cooperation;

(d) To invite each other's representatives to attend and participate in the meetings of their respective governing bodies as observers, in accordance with the rules of procedure of such bodies;

(e) To exchange data and information, as appropriate, on matters of mutual interest;

(f) To conduct, where appropriate, cooperative studies and seminars;

(g) That the present memorandum of understanding is without prejudice to agreements concluded by either party with other organizations or programmes;

(h) That the cooperation between the two organizations referred to herein is subject to the requirement of confidentiality of data and information imposed upon the Pacific Community by the agreements concluded with its member States and upon the Authority by the Convention in respect of data and information submitted to it by applicants and contractors relating to the exploration of resources of the Area;

(i) That nothing in or relating to the present memorandum of understanding shall be deemed to be a waiver, express or implied, of any of the privileges or immunities of the Authority and the Pacific Community;

(j) That the present memorandum of understanding will come into effect upon its signature by the Director General of the Pacific Community and the Secretary-General of the Authority, or by persons duly authorized by them. It may be terminated by any of the parties by giving to the other a written notice six months prior to the proposed date of termination.

IN WITNESS WHEREOF, the undersigned have signed the present memorandum of understanding in duplicate.

For the secretariat of the Pacific Community:	For the International Seabed Authority:
Colin Tukuitonga Director General	Nii Allotey Odunton Secretary-General
Date:_____	Date:_____